

HOME CHDO ALLOCATION OF FUNDING AGREEMENT
between the
CITY OF COLLEGE STATION
And
BRAZOS VALLEY COMMUNITY ACTION AGENCY, INC. (BVCAA)

This Community Housing Development Allocation of Funding Agreement ("Agreement" hereinafter) is made and entered into by and between the CITY OF COLLEGE STATION, a Home Rule Municipal Corporation incorporated under the laws of the State of Texas ("City" hereinafter), and BRAZOS VALLEY COMMUNITY ACTION AGENCY, INC., a Texas non-profit corporation ("Agency" hereinafter).

WHEREAS, the City has the objective of providing for the development of low-to-moderate-income housing for residents of the City through its Community Development Division;

WHEREAS, Agency, through its express purpose as set forth in its corporate bylaws, shares this common goal with the City as a Department of Housing and Urban Development ("HUD" hereinafter) approved Community Housing Development Organization ("CHDO" hereinafter).

WHEREAS, the City is required by HUD to reserve not less than fifteen percent (15%) of the HOME allocation for investment only in housing to be developed, sponsored or owned by certified Community Housing Development Organizations (CHDO's hereinafter) within twenty-four (24) months from notification by HUD of the allocation pursuant to applicable HUD regulations including but not limited to 24 CFR § 92.300, and as approved in the City's 2000 and 2001 Action Plan updates of the 2000 - 2004 Consolidated Plan which set aside a portion of HOME Grant funds for CHDO's to develop low-to-moderate-income housing;

WHEREAS, pursuant to the requirements cited hereinabove, the City must reserve fifteen percent (15%) of its HOME allocation for fiscal years 2000 and 2001;

WHEREAS, the City may reserve an additional five percent (5%) of the HOME allocation for fiscal year 2000 and 2002 for operating expenses of CHDO's pursuant to applicable federal HUD regulations including but not limited to 24 CFR § 92.208, and as approved in the City's 1999 and 2001 Action Plan update of the 1995-1999 and 2000-2004 Consolidated Plans, which set aside a portion of HOME Grant funds for CHDO's to utilize for operating expenses;

WHEREAS, the City desires to assist Agency in providing for the development of low-to-moderate income housing through funds provided by the HUD Home Investment Partnerships Program;

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual purposes and obligations set forth herein, the City and Agency covenant and agree as follows:

This Agreement sets forth the understanding of the parties concerning the City's HOME Grant as approved by the U.S. Department of Housing and Urban Development ("HUD"). The City's 2000 and 2001 Action Plans set aside a portion of HOME Grant funds for Community Housing Development Organizations (CHDO's) to develop low-to-moderate-income housing. Further, the City's 1999 and 2001 Action Plans set aside a portion of HOME Grant funds for Community Housing Development Organizations (CHDO's) to utilize for operating expenses. It is the intent of this Agreement to outline what eligible activities and procedures Agency must comply with in order to qualify for a portion of the City's HOME CHDO funding. The parties have severally and collectively agreed, and by the execution hereof are bound, to the mutual obligations and to the performance and accomplishment of the tasks described herein.

Section 1 - City's Responsibilities

A. The Community Development Administrator, or other designated Community Development Staff, will act as liaison on behalf of the City.

B. The City agrees to assume overall responsibility as the "Grantee" for ensuring that the Housing Assistance programs using HOME Grant funds are carried out in accordance with the applicable federal regulations set forth in 24 CFR § 92.300, HOME INVESTMENT PARTNERSHIPS PROGRAM and 24 CFR § 92.208, ELIGIBLE COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO) OPERATING EXPENSES. The City shall complete and provide documentation as required by HUD for program reporting requirements.

C. The City agrees to pay eligible costs, up to eighty five thousand, fifty and no/100 dollars (\$85,050.00) per fiscal year, not to exceed a maximum total amount of **one hundred seventy thousand, one hundred and no/100 dollars (\$170,100.00) over the term of this Agreement**, on a reimbursement basis to Agency for CHDO eligible activities carried out within the City's jurisdictional boundaries as outlined in 24 C.F.R. § 92.300, attached hereto as **Exhibit "A"** and incorporated herein for all purposes.

D. The City further agrees to pay up to the lesser of, fifty percent (50%) of Agency's total operating expenses per fiscal year or twenty eight thousand, three hundred twenty five and no/100 dollars (\$28,325.00), per fiscal year, not to exceed a maximum total amount of **fifty six thousand six hundred fifty and no/100 dollars (\$56,650.00) over the term of the Agreement**, on a reimbursement basis to Agency for CHDO eligible operating expenses as outlined in 24 C.F.R. § 92.208, attached hereto as **Exhibit "B"** and incorporated herein for all purposes.

E. The total reimbursement amount to Agency from 1999, 2000 and 2001 HOME Program funds **shall not exceed two hundred twenty-six thousand, seven hundred fifty and no/100 dollars (\$226,750.00).**

Section 2 - BVCAA Responsibilities

- A. The Executive Director for Agency, or other designated Agency staff, will act as liaison on behalf of Agency.
- B. Agency agrees to execute any and all documents requested by the City for compliance with the HOME Investment Partnership Program, as specified in 24 C.F.R. § 92.505(b) and agrees to comply with all uniform administrative requirements as more particularly described in § 92.505, "Applicability of uniform administrative requirements, (b) Non-profit organizations" attached hereto as **Exhibit "C"** and incorporated herein for all purposes.
- C. Agency agrees to maintain itself as a CHDO in accordance with Title II of the National Affordable Housing Act (1990), as it may be amended, concerning the HOME Investment Partnership program (HOME) (24 CFR § 92.300, "Set-aside for community housing development organizations (CHDOs)", (**Exhibit "A"**), and the CHDO Certification policies established by the City in conjunction with the Department of Housing and Urban Development (HUD).
- D. Agency agrees to bring all acquisition or rehabilitation projects to such a code and maintenance condition so as to meet or exceed all applicable local, state, and federal housing code requirements (including HUD Housing Quality Standards). Within ninety (90) days of the execution of this agreement, BVCAA will adopt construction specifications and standards to be used on projects funded by this agreement and will provide the City a copy for review and approval.
- E. Agency agrees to complete all acquisition, rehabilitation or new construction projects and sell all those properties to eligible low or moderate income families within three (3) years from the date of this agreement, or by federally required deadlines, whichever is sooner. For projects including acquisition for new construction, the construction must begin within one (1) year of the acquisition of the property. The issuance of a building permit will constitute start of construction.
- F. Agency agrees to provide the City full and complete documentation of all eligible expenses fourteen (14) calendar days prior to the requested reimbursement date. All eligible expenses must be already "paid in full" by Agency prior to submittal to the City. The Community Development Administrator may waive this requirement to facilitate program goals and objectives.
- G. Agency agrees to collect homeownership applications, determine eligibility, gather all initial data connected with these applications, and to assist the prospective homebuyer with the negotiation of permanent financing with participating lenders. Agency agrees to ensure the long term affordability of the property to the new homebuyer as specified in 24 CFR § 92.254 or the new owner as specified in 24 CFR § 92.254. These affordability requirements must be enforced by the use of real estate lien notes and deeds of trust.
- H. Agency agrees to affirmatively market all properties to eligible low or moderate-income families as described 24 CFR § 92.351(a), attached hereto as **Exhibit "D"** and **incorporated herein for all purposes.**

I. Agency agrees to furnish the City with information on the program participants necessary to meet HUD reporting requirements (i.e., income verifications, ethnicity, age, sex, family status, disability status and head-of-household status). Agency also agrees to make all files on projects/programs funded by this agreement available for inspection by City staff. Agency will report any project and/or program delays or modifications and await City approval before proceeding. Agency will also report any instances of client fraud or program abuse to the City.

J. Agency agrees to refund all CHDO funds that the City in its sole discretion determines to have been used for ineligible and/or unapproved purposes. Such refunds will be made within thirty (30) days of notification by the City of the ineligible expenditure.

K. Agency agrees to meet with the City to discuss progress or concerns as the need arises and at the City's request. Agency also agrees to report on a bi-annual basis to the City on program/project status as outlined in 24 C.F.R. § 92.504(c)(2)(viii). This must be a written report of the status on recently completed, ongoing, and pre-approved programs and/or projects and must include information for the reporting period to include the status on: applicant approvals/denials; projects/programs approved; fund disbursements; project bidding information; property sales; contractor/subcontractor utilization (amounts, ethnicity, addresses, social security numbers and amounts billed and paid); use of program income; and other information as appropriate and required by the attached program guidelines. Agency agrees the programs and/or projects will be administered according to the Agency's Program guidelines and all applicable regulations and guidelines per the City of College Station 2000 and 2001 Action Plans (as amended).

L. Agency agrees to place all sales proceeds gained from this program back into its Affordable Housing Initiative Program, and more specifically, into other HOME eligible Agency housing projects located within the jurisdictional boundaries of College Station.

M. Agency agrees to utilize operating expenses allocated under this Agreement for eligible activities as outlined in 24 C.F.R. § 92.208(a). These operating expenses are limited to the following uses: Salaries, wages, other employee compensation and benefits; employee education and training limited to courses directly related to CHDO activity and approved by the City in writing in advance, necessary and approved travel, equipment, and supplies. Agency further agrees to utilize the operating expenses allocated under this Agreement to fund one (1) staff member dedicated to CHDO activity within the jurisdictional boundaries of the City of College Station within 180 days of the effective date of this Agreement.

Section 3 - General Terms

A. The term of this Agreement shall be two (2) calendar years from the date this Agreement is fully executed in writing by both parties. With agreement by both parties the contract may be extended for a time specified in a jointly signed and approved term extension memorandum.

B. This Agreement and the rights and obligations contained herein may not be assigned by either party.

C. This Agreement has been made under and shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in Brazos County, Texas.

D. This Agreement may only be amended by written instrument, approved and executed by both parties.

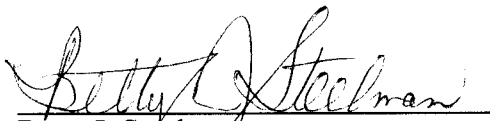
E. The City may terminate this agreement for any reason, with or without cause, at any time after a thirty (30) day written notice to Agency.

F. If any provision(s) of this Agreement shall be held to be invalid, illegal, or unenforceable by a court, by HUD, or other competent tribunal the validity, legality, and enforceability of the remaining provisions shall not be impaired thereby. In such event, the parties hereby agree to use their best efforts to replace the respective provision or provisions with terms and conditions approximating the original intent of the parties and conforming in all respects with applicable law and HUD regulations and directives.

G. Each party has the full power and authority to enter into and perform this Agreement, and the person signing on behalf of each party has been properly authorized and empowered to execute this Agreement.

H. The parties hereby acknowledge that they have read, understand, and intend to be bound by the terms and conditions contained herein.

BRAZOS VALLEY COMMUNITY ACTION AGENCY, INC.


Betty J. Steelman
Lead Administrator

8/30/02
Date

CITY OF COLLEGE STATION

By: _____
Ron Silvia, Mayor

Date

ATTEST:

By: _____
Connie Hooks, City Secretary

Date

APPROVED:

Thomas E. Brymer, City Manager
Carla A. Robinson

City Attorney

Date

8/30/02

Date

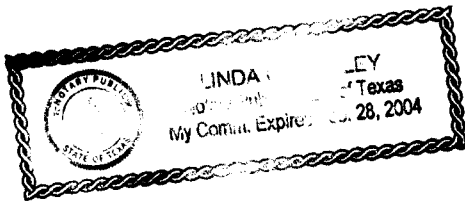
Charles Cryan, Director of Fiscal Services

Date

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

ACKNOWLEDGMENT

This instrument was acknowledged before me on the 30th day of August, 2001, by Betty J. Steelman, in her capacity as Lead Administrator of Brazos Valley Community Action Agency, a Texas Non-Profit Corporation.



Linda C. Shirley
Notary Public in and for
the State of Texas

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

ACKNOWLEDGMENT

This instrument was acknowledged before me on the _____ day of _____, 2001, by Ron Silvia, as Mayor of the City of College Station, a Texas municipal corporation, on its behalf.

Notary Public in and for
the State of Texas

EXHIBIT "A"

Copy of 24 C.F.R. 92.300 follows:

Agreement No. _____

CRC Approved – Standard Form: 08/28/01

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§ 92.300 Set-aside for community housing development organizations (CHDOs).

(a)(1) Within 24 months after HUD notifies the participating jurisdiction of HUD's execution of the HOME Investment Partnerships Agreement, the participating jurisdiction must reserve not less than 15 percent of the HOME allocation for investment only in housing to be developed, sponsored, or owned by community housing development organizations. For a State, the HOME allocation includes funds reallocated under § 92.451(c)(2)(i) and, for a unit of general local government, funds transferred from a State under § 92.102(b). The funds are reserved when a participating jurisdiction enters into a written agreement with the community housing development organization. The funds must be provided to a community housing development organization, its subsidiary, or a partnership of which it or its subsidiary is the managing general partner. If a CHDO owns the project in partnership, it or its wholly owned for-profit or non-profit subsidiary must be the managing general partner. In acting in any of the capacities specified, the community housing development organization must have effective project control. In addition, a community housing development organization, in connection with housing it develops, sponsors or owns with HOME funds provided under this section, may provide direct homeownership assistance (e.g. downpayment assistance) and not be considered a subrecipient.

(2) The participating jurisdiction determines the form of assistance, e.g., grant or loan, that the community housing development organization receives and whether any proceeds must be returned to the participating jurisdiction or may be retained by the community housing development organization. While the proceeds the participating jurisdiction permits the community housing development organization to retain are not subject to the requirements of this part, the participating jurisdiction must specify in the written agreement with the community housing development organization whether they are to be used for HOME-eligible or other housing activities to benefit low-income families. However, funds recaptured because housing no longer meets the affordability requirements under § 92.254(a)(5)(ii) are subject to the requirements of this part in accordance with § 92.503.

(b) Each participating jurisdiction must make reasonable efforts to identify community housing development organizations that are capable, or can reasonably be expected to become capable, of carrying out elements of the jurisdiction's approved consolidated plan and to encourage such community housing development organizations to do so. If during the first 24 months of its participation in the HOME Program a participating jurisdiction cannot identify a sufficient number of capable community housing development organizations, up to 20 percent of the minimum community housing development organization setaside of 15 percent specified in paragraph (a) of this section, above, (but not more than \$150,000 during the 24 month period) may be committed to develop the capacity of community housing development organizations in the jurisdiction.

(c) Up to 10 percent of the HOME funds reserved under this section may be used for activities specified under § 92.301.

(d) HOME funds required to be reserved under this section are subject to reduction, as provided in § 92.500(d).

(e) If funds for operating expenses are provided under § 92.208 to a community housing development organization that is not also receiving funds under paragraph (a) of this section for housing to be developed, sponsored or owned by the community housing development organization, the participating jurisdiction must enter into a written agreement with the community housing development organization that provides that the community housing development organization is expected to receive funds under paragraph (a) of this section within 24 months of receiving the funds for operating expenses, and specifies the terms and conditions upon which this expectation is based.

(f) *Limitation on community housing development organization operating funds.* A community housing development organization may not receive HOME funding for any fiscal year in an amount that provides more than 50 percent or \$50,000, whichever is greater, of the community housing development organization's total operating expenses in that fiscal year. This also includes organizational support and housing education provided under section 233(b)(1), (2), and (6) of the Act, as well as funds for operating expenses provided under § 92.208.

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28930, May 28, 1997]

EXHIBIT "B"

Copy of 24 C.F.R. 92.208 follows:

Agreement No. _____

CRC Approved – Standard Form: 08/28/01

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§ 92.208 Eligible community housing development organization (CHDO) operating expense and capacity building costs.

(a) Up to 5 percent of a participating jurisdiction's fiscal year HOME allocation may be used for the operating expenses of community housing development organizations (CHDOs). These funds may not be used to pay operating expenses incurred by a CHDO acting as a subrecipient or contractor under the HOME Program. Operating expenses means reasonable and necessary costs for the operation of the community housing development organization. Such costs include salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; equipment; materials and supplies. The requirements and limitations on the receipt of these funds by CHDOs are set forth in § 92.300 (e) and (f).

(b) HOME funds may be used for capacity building costs under § 92.300(b).

EXHIBIT "C"

24 C.F.R. § 92.505(b) follows:

Agreement No. _____

CRC Approved – Standard Form: 08/28/01

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§ 92.505 Applicability of uniform administrative requirements.

(a) *Governmental entities.* The requirements of OMB Circular No. A-87 and the following requirements of 24 CFR part 85 apply to the participating jurisdiction, State recipients, and any governmental subrecipient receiving HOME funds: §§ 85.6, 85.12, 85.20, 85.22, 85.26, 85.32 through 85.34, 85.36, 85.44, 85.51, and 85.52.

(b) *Non-profit organizations.* The requirements of OMB Circular No. A-122 and the following requirements of 24 CFR part 84 apply to subrecipients receiving HOME funds that are nonprofit organizations that are not governmental subrecipients: §§ 84.2, 84.5, 84.13 through 84.16, 84.21, 84.22, 84.26 through 84.28, 84.30, 84.31, 84.34 through 84.37, 84.40 through 84.48, 84.51, 84.60 through 84.62, 84.72, and 84.73.

(c) OMB Circulars referenced in this part may be obtained from: Executive Office of the President, Publication Service, 725 17th Street, N.W., Suite G-2200, Washington, DC 20503; telephone: (202) 395-7332.

[61 FR 84750, Sept. 16, 1996, as amended at 62 FR 28930, May 28, 1997]

EXHIBIT "D"

Copy of 24 C.F.R. 92.351 follows:

Agreement No. _____

CRC Approved - Standard Form: 08/28/01

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§ 92.351 Affirmative marketing; minority outreach program.

(a) *Affirmative marketing.* (1) Each participating jurisdiction must adopt affirmative marketing procedures and requirements for rental and homebuyer projects containing 5 or more HOME-assisted housing units. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status or disability. (The affirmative marketing procedures do not apply to families with Section 8 tenant-based rental housing assistance or families with tenant-based rental assistance provided with HOME funds.)

(2) The affirmative marketing requirements and procedures adopted must include:

- (i) Methods for informing the public, owners, and potential tenants about Federal fair housing laws and the participating jurisdiction's affirmative marketing policy (e.g., the use of the Equal Housing Opportunity logotype or slogan in press releases and solicitations for owners, and written communication to fair housing and other groups);
- (ii) Requirements and practices each owner must adhere to in order to carry out the participating jurisdiction's affirmative marketing procedures and requirements (e.g., use of commercial media, use of community contacts, use of the Equal Housing Opportunity logotype or slogan, and display of fair housing poster);
- (iii) Procedures to be used by owners to inform and solicit applications from persons in the housing market area who are not likely to apply for the housing without special outreach (e.g., use of community organizations, places of worship, employment centers, fair housing groups, or housing counseling agencies);
- (iv) Records that will be kept describing actions taken by the participating jurisdiction and by owners to affirmatively market units and records to assess the results of these actions; and
- (v) A description of how the participating jurisdiction will annually assess the success of affirmative marketing actions and what corrective actions will be taken where affirmative marketing requirements are not met.

(3) A State that distributes HOME funds to units of general local government must require each unit of general local government to adopt affirmative marketing procedures and requirements that meet the requirement in paragraphs (a) and (b) of this section.

(b) *Minority outreach.* A participating jurisdiction must prescribe procedures acceptable to HUD to establish and oversee a minority outreach program within its jurisdiction to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including, without limitation, real estate firms, construction firms, appraisal firms, management firms, financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts entered into by the participating jurisdiction with such persons or entities, public and private, in order to facilitate the activities of the participating jurisdiction to provide affordable housing authorized under this Act or any other Federal housing law applicable to such jurisdiction. Section 85.36(e) of this title describes actions to be taken by a participating jurisdiction to assure that minority business enterprises and women business enterprises are used when possible in the procurement of property and services.